

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7616 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAVISON @ PINTU ALEXANDER CHRISTIAN

Versus

COMMISSIONER OF POLICE

Appearance:

MS. SM AHUJA for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 08/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the order dated 19.8.1996 passed by the Police Commissioner, Ahmedabad City whereby the petitioner has been detained under the Gujarat Prevention of Anti Social Activities Act, 1985. The petitioner is under detention lodged at Jamnagar District Jail, Jamnagar.

This Special Civil Application was filed on

8.10.1996 and on 9.10.1996 rule returnable was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that 5 criminal cases for the offences under the I.P.C. with regard to theft of scooters and motor cycles under Section 379 were registered against the petitioner. Besides this, the detaining authority has taken into consideration the statements made by certain witnesses against the petitioner's criminal activities and the petitioner has been detained as a dangerous person.

The detention order has been challenged on more than one grounds but the learned counsel has stressed that no case of breach of public order is made out.

In view of the decision rendered on 30.10.1996 by this court in Special Civil Application No. 5423 of 1996 decided on the basis of the earlier decision of the Division Bench of this Court, it is clear that the allegations and material relied upon by the detaining authority against the petitioner do not constitute a case of breach of public order. It is at the most a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 19.8.1996 passed by the Police Commissioner, Ahmedabad City, is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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